

Jesse C. Trentadue (#4961)
8 East Broadway, Suite 200
Salt Lake City, UT 84111
Telephone: (801) 532-7300
Facsimile: (801) 532-7355
jesse32@sautah.com

Pro Se Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JESSE C. TRENTADUE,

Plaintiff,

vs.

UNITED STATES CENTRAL
INTELLIGENCE AGENCY,
FEDERAL BUREAU OF
INVESTIGATION, and FEDERAL
BUREAU OF INVESTIGATION'S
OKLAHOMA CITY FIELD OFFICE,

Defendants.

AMENDED COMPLAINT

Case No.: 2:08cv788
Magistrate Judge David A. Nuffer

By way of *Amended Complaint* under the *Freedom of Information Act*, 5 U.S.C.

§§ 552 *et. seq.* (hereinafter "*FOIA*"), Plaintiff Jesse C. Trentadue, alleges and complains

against the United States Central Intelligence Agency, Federal Bureau of Investigation, and the Federal Bureau of Investigation's Oklahoma City Field Office as follows:

PARTIES

1. Plaintiff is a citizen of the United States and a resident of Salt Lake County, Utah.

2. The United States Central Intelligence Agency ("CIA") is an "Agency" of the Executive Branch of the United States of America within the meaning of 5 *U.S.C.* §§ 551(1) and 552(f)(1). As an Agency of the Executive Branch, the CIA is subject to *FOIA* and a proper party within the meaning of 5 *U.S.C.* §§ 702 and 703.

3. The Federal Bureau of Investigation is an "agency" of the Executive Branch of the United States of America within the meaning of 5 *U.S.C.* §§ 551(1) and 552(f)(1). As an agency of the Executive Branch, the Federal Bureau of Investigation is subject to *FOIA* and a proper party within the meaning of 5 *U.S.C.* §§ 702 and 703.

4. The Federal Bureau of Investigation's Oklahoma City Field Office is a "*component*" of the Federal Bureau of Investigation within the meaning of 28 *C.F.R.* § 16.1. As a "*component*" of the Federal Bureau of Investigation, the Federal Bureau of Investigation's Oklahoma City Field Office is subject to *FOIA* and a proper party within the meaning of 5 *U.S.C.* §§ 702 and 703.

5. The Federal Bureau of Investigation and the Federal Bureau of Investigation's Oklahoma City Field Office will hereinafter be collectively referred to as "FBI Defendants."

6. This lawsuit and the documents-records at issue all arise out of the same transaction and occurrence namely: A failed sting operation involving Department of Justice and Southern Poverty Law Center informants-infiltrators that was focused upon and directed towards Neo-Nazi and/or Militia activities at a white supremacist paramilitary training facility located at Elohim City, Oklahoma, which activities included bombing the Alfred P. Murrah Building in Oklahoma City, Oklahoma on April 19, 1995.

JURISDICTION AND VENUE

7. This Court's jurisdiction over this matter arises under 5 *U.S.C.* § 552(a)(4)(B); the *First Amendment* to the *Constitution of the United States*; the *Administrative Procedure Act*, 5 *U.S.C.* §§ 701 *et seq.*; 28 *U.S.C.* § 1331; and the equitable powers inherent in the Courts of the United States of America.

8. Venue lies within this Court pursuant to 5 *U.S.C.* § 552(a)(4)(B) and 28 *U.S.C.* § 1391(e).

GENERAL ALLEGATIONS AS TO CIA

9. On December 19, 2006, Plaintiff served three separate and discrete *FOIA Requests* upon the CIA. Plaintiff's first *FOIA Request* sought the following documents and/or records: CIA Office of Inspector General documents and/or records , directly or indirectly, relating or referring to the CIA's knowledge of the April 19, 1995, attack upon the Murrah Federal Building, including documents and/or records, directly or indirectly, relating or referring to any investigations of the CIA's involvement with or connection to the Murrah Building Bombing. A copy of this *FOIA Request* is attached hereto as **Exhibit 1** and incorporated by reference.

10. Plaintiff's second *FOIA Request* sought the following documents and/or records: the documents and/or records which Linda Cipprianni of the CIA's Office of General Counsel had provided to Assistant United States Attorney Beth Wilkinson of the OKBOMB Task Force related to the Murrah Building Bombing. A copy of this *FOIA Request* is attached hereto as **Exhibit 2** and incorporated by reference.

11. Plaintiff's third *FOIA Request* sought the following documents and/or records: documents and/or records on Andreas Carl Strassmeir which, directly or indirectly, related or referred to Andreas Strassmeir's possible involvement in the bombing of the Murrah Federal Building on April 19, 1995; Strassmeir's role and/or

activities as an informant, aid or operative, including working for or reporting to the German government, FBI, Southern Poverty Law Center or others; and/or Strassmeir's activities at Elohim City, Oklahoma, including his relationship with Timothy McVeigh and/or the Midwest Bank Robbery Gang. A copy of this *FOIA Request* is attached hereto as **Exhibit 3** and incorporated by reference.

12. By letter dated February 23, 2007, the CIA acknowledged receipt of Plaintiff's three December 19, 2006, *FOIA Requests*. In that letter, the CIA advised Plaintiff that the agency had "combined" his three separate *FOIA Requests* and was treating them as one by assigning all three *Requests* reference number "F-2007-00513." In that letter, the CIA also asked for a written commitment from Plaintiff to pay for search and production costs in responding to the combined *Requests*. Plaintiff believes and, therefore, alleges that the CIA unlawfully and illegally combined these *Requests* in order to delay producing the documents and/or records and to increase the cost to Plaintiff of that production. A copy of that letter is attached hereto as **Exhibit 4** and incorporated by reference.

13. On March 4, 2007, Plaintiff wrote to the CIA agreeing to pay the CIA's search and production costs as outlined in the February 23, 2007, letter. A copy of

pPlaintiff's March 4, 2007, letter is attached hereto as **Exhibit 5** and incorporated by reference.

14. On October 17, 2007, Plaintiff wrote to the CIA asking for a status report on his *FOIA Requests*. A copy of that October 17, 2007, letter is attached as **Exhibit 6** and incorporated by reference.

15. By letter dated November 5, 2007 but not received by Plaintiff until November 16, 2007, the CIA wrote to Plaintiff's about his request for a status report. In that letter, the CIA informed Plaintiff that it was unable to give him a definite date by which it would respond to his three *FOIA Requests*. A copy of the CIA's November 5, 2007, letter is attached hereto as **Exhibit 7**, and incorporated by reference.

16. By letter dated March 20, 2008, Plaintiff again wrote to the CIA to inquire about the status of his *FOIA Requests*. A copy of that letter is attached hereto as **Exhibit 8** and incorporated by reference. The CIA never responded to that March 20, 2008, inquiry from Plaintiff.

17. The CIA did not respond to Plaintiff's three *FOIA Requests* as required by 32 C.F.R. § 1900.21 and/or 5 U.S.C. § 552(a)(6). The CIA responses to Plaintiff's *FOIA Requests* were not in accordance with 5 U.S.C. § 552(a)(6) in that the CIA did not inform Plaintiff of the name, title position of the person withholding the requested documents

and/or records; the reason(s) for withholding the documents and/or records, including any *FOIA* exemption; an estimate of the volume of documents and/or records or information withheld and number of pages or in some other reasonable form of estimation; and a statement that the withholding could be appealed. Moreover, the CIA 's responses to Plaintiff's *FOIA Requests* were also not in compliance with the requirements of 32 *C.F.R.* § 1900.21 and 5 U.S.C. § 552(a)(6)(A) in that the CIA in its responses failed to make a determination as to whether it would comply with or deny Plaintiff's *FOIA Requests*.

18. Due to the CIA not having complied with the requirements of 32 *C.F.R.* § 1900.21 and 5 U.S.C. § 552(a)(6)(A) in responding to the subject *FOIA Requests*, pursuant to 5 U.S.C. §§ 552(a)(6)(A) and (C), Plaintiff has constructively exhausted his administrative remedies.

GENERAL ALLEGATIONS AS TO FBI DEFENDANTS

19. On October 12, 2008, Plaintiff filed and/or served a *FOIA Request* with and/or upon FBI Defendants asking for: (a) "a copy of all surveillance videos taken from the areas surrounding the Alfred P. Murrah Building on April 19, 1995," the date of the Oklahoma City bombing; (b) "a copy of all videotapes collected by the FBI and/or others in Oklahoma from April 15, 1995 through April 19, 1995" as part of the Oklahoma City Bombing investigation; (c) "a copy of the videotape taken from the Oklahoma Highway

Patrol Officer Charlie Hangers' patrol car, which recorded the arrest of Timothy McVeigh on April 19, 1995;" and (d) "copies of all reports, including 302s that describe or reference the FBI's taking possession of these videotapes." A copy of Plaintiff's *FOIA Requests* to FBI Defendants is attached hereto as **Exhibit 9** and incorporated by reference.

20. Plaintiff served this *FOIA Request* upon FBI Defendants by facsimile. A confirmation of FBI Defendants' receipt of this *FOIA Request* served by facsimile on October 12, 2008 is attached hereto as **Exhibit 10** and incorporated by reference.

21. By a letter dated October 14, 2008 and an e-mail dated October 15, 2008, FBI Defendants acknowledged receipt of Plaintiff's *FOIA Request* and advised Plaintiff that his *FOIA Request* had been assigned reference number "FOIA PA #: 1120866." Copies of that letter and e-mail are attached hereto as, respectively, **Exhibit 11** and **Exhibit 12** and incorporated by reference.

22. FBI Defendants did not respond to Plaintiff's *FOIA Request* as required by 28 *C.F.R.* § 16.6 and/or 5 *U.S.C.* § 552(a)(6). FBI Defendants' response to Plaintiff's *FOIA Request* was not in accordance with 28 *C.F.R.* § 16.6 and 5 *U.S.C.* § 552(a)(6) in that FBI Defendants did not inform Plaintiff of the name, title position of the person withholding the requested documents and/or records; the reason(s) for withholding the

documents and/or records, including any *FOIA* exemption; an estimate of the volume of documents and/or records or information withheld and number of pages or in some other reasonable form of estimation; and a statement that the withholding could be appealed. Moreover, FBI Defendants' response to Plaintiff's *FOIA Request* was also not in compliance with the requirements of 28 *C.F.R.* § 16.6 and 5 *U.S.C.* § 552(a)(6)(A) in that FBI Defendants in their response failed to make a determination as to whether they would comply with or deny Plaintiff's *FOIA Request*.

23. Due to FBI Defendants not having complied with the requirements of 28 *C.F.R.* § 16.6 and 5 *U.S.C.* § 552(a)(6)(A) in responding to the subject *FOIA Requests*, pursuant to 5 *U.S.C.* §§ 552(a)(6)(A) and (C), Plaintiff has constructively exhausted his administrative remedies.

FIRST CAUSE OF ACTION AS TO THE CIA
(Refusal to Produce Documents)

24. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 18 above.

25. Plaintiff has a statutory right to the documents and/or records requested in his *FOIA Requests* to the CIA.

26. The CIA has possession and control of the documents and/or records requested by Plaintiff.

27. Pursuant to *FOIA*, the CIA has a statutory duty to produce those documents and/or records to Plaintiff but has breached and continue to breach that duty.

28. The CIA has responded in bad faith to Plaintiffs' *FOIA Requests*. The CIA has, for example, unlawfully and illegally combined these *Requests* in order to delay producing the documents and/or records and to increase the cost to Plaintiff of that production. The CIA has also produced no documents and/or records in response to Plaintiff's *FOIA Requests*. Neither has the CIA asserted any exemptions from disclosure with respect to the documents and/or records requested by Plaintiff. The CIA likewise has no legal basis to withhold the documents and/or records requested by Plaintiff but it has unlawfully denied and continues to unlawfully deny Plaintiff access to these documents and/or records.

29. As a direct and proximate result of such denials, Plaintiff has suffered and continues to suffer grave and irreparable injury.

30. Plaintiff is entitled to seek judicial review of the CIA's actions and/or inactions with respect to his three *FOIA Requests* and that review is authorized pursuant to 5 *U.S.C.* § 552(a)(4)(B). Plaintiff is also clearly entitled to judicial relief in this Court as set forth in the prayer to this *Complaint*.

SECOND CAUSE OF ACTION AS TO FBI DEFENDANTS
(Refusal to Produce Documents)

31. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 8 and 19 through 23 above.

32. Plaintiff has a statutory right to the documents and/or records requested in his *FOIA Request* to FBI Defendants.

33. FBI Defendants have possession and control of the documents and/or records requested by Plaintiff.

34. FBI Defendant have responded in bad faith to Plaintiff's *FOIA Request*. FBI Defendants, for example, have produced no documents and/or records to Plaintiff. Neither have FBI Defendants asserted any exemption from disclosure which with respect to the documents and/or records requested by Plaintiff.

35. Pursuant to *FOIA*, FBI Defendants have a statutory duty to produce those documents and/or records to Plaintiff but have breached and continue to breach that duty.

36. FBI Defendants have no legal basis to withhold the documents and/or records requested by Plaintiff but they have unlawfully denied and continue to unlawfully deny Plaintiff access to these documents and/or records.

37. As a direct and proximate result of such denials, Plaintiff has suffered and continues to suffer grave and irreparable injury.

38. Plaintiff is entitled to seek judicial review pursuant to 5 *U.S.C.* § 552(a)(4)(B) of FBI Defendants' actions or inactions with respect to Plaintiff's *FOIA Request* and that review is authorized pursuant to 5 *U.S.C.* § 552(a)(4)(B). Plaintiff is also clearly entitled to judicial relief in this Court as set forth in the prayer to this *Amended Complaint*._____

PRAYER

Wherefore, Plaintiff respectfully requests this Court for judgment and/or other relief against CIA and/or FBI Defendants as follows:

1. For an expedited proceeding;
2. For an *Order* permanently enjoining both the CIA and FBI Defendants from withholding the documents and/or records which Plaintiff has requested under *FOIA* and further requiring both the CIA and FBI Defendants to immediately produce all such documents and/or records;
3. For an *Order* awarding Plaintiff his costs, disbursements and reasonable attorney's fees pursuant to 5 *U.S.C.* § 552(a)(4)(E); and
4. For an *Order* awarding Plaintiff such other and further relief as may be equitable, just and proper under the circumstances.

DATED this 11th day of November , 2008.

/s/ jesse c. trentadue

Jesse C. Trentadue

Pro Se Plaintiff _____

T:\6000\6201\1\FOIA CIA\AMENDED COMPLAINT.wpd

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of November, 2008, a true and correct copy of the foregoing *Amended Complaint* was served by electronic process upon the following:

Jared C. Bennett
Assistant United States Attorney
185 South State Street
Suite 400
Salt Lake City, Utah 84111
Attorney for CIA

/s/ jesse c. trentadue